

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MANFRED POLK,)
)
Plaintiff,)
)
v.) Case No. 3:05-0335
) Judge Echols
)
GENERAL MOTORS CORPORATION,)
et al.,)
)
Defendants.)

ORDER

This matter is before the Court on a Report and Recommendation ("R & R") (Docket Entry No. 55) in which the Magistrate Judge recommends granting the Defendant Sonic-Crest Cadillac LLC's ("Sonic") unopposed Motion for Judgment on the Pleadings (Docket Entry No. 42) and Defendant General Motors Corporation's ("GM") Motion for Summary Judgment (Docket Entry No. 48) in this lawsuit involving Plaintiff's lease of a Cadillac Deville.

The Magistrate Judge recommends granting Sonic's motion on the grounds that the statute of limitations for a conspiracy claim has run and also because Plaintiff did not allege facts which would show an agreement or combination between Sonic and GM to fail to inform him of known defects in the Cadillac. The Magistrate Judge also recommends that GM's Motion for Summary Judgment be granted because Plaintiff presented no evidence to suggest that genuine issues of material fact exist with respect to his claims that GM

breached a contract, was involved in a conspiracy with Sonic, or violated the Fair Credit Reporting Act.

The R&R was entered on May 30, 2006. Even though the Magistrate Judge specifically informed Plaintiff in the R&R that he needed to file any objection to the R&R within ten days (Docket Entry No. 55 at 8-9), no such objections have been filed.

Upon review of an R & R, the Court "shall make a *de novo* determination of the matter and may conduct a new hearing, take additional evidence, recall witnesses, recommit the matter to the Magistrate Judge for further proceedings and consideration, conduct conferences with counsel for the affected parties, and receive additional arguments, either oral or written, as the District Judge may desire." L.R.M.J. 9(b) (3). See, Fed.R.Civ.P. 72(b).

This Court has thoroughly reviewed Plaintiff's Complaint, the Motion for Judgment on the Pleadings filed by Sonic, the Motion for Summary Judgment by GM, and the R&R. The Court finds the Magistrate Judge employed the proper legal analysis in ruling on Sonic's Motion for Judgment on the Pleadings and finds judgment on the pleadings with respect to that Defendant proper. The Court also finds the Magistrate Judge employed the proper standards in ruling on GM's Motion for Summary Judgment, there exist no genuine issue of material fact, and GM is entitled to judgment in its favor.

Accordingly, the Court rules as follows:

(1) The Report and Recommendation (Docket Entry No. 55) is hereby ACCEPTED;

(2) Defendant Sonic's Motion for Judgment on the Pleadings (Docket Entry No. 42) is hereby GRANTED;

(3) Defendant GM's Motion for Summary Judgment (Docket Entry No. 48) is hereby GRANTED; and

(4) This case is hereby DISMISSED WITH PREJUDICE.

Entry of this Order on the docket shall constitute entry of a final judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is so ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE